IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22046 of 2004

Between:

Kola Rama Rao S/o late Narayana
R/o Sithampeta Village V.R. Puram Mandal, Khammam District

..... PETITIONER

AND

The Mandal Revenue Officer, V.P. Puram Mandal Khammam District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably Writ of Mandamus declaring the order issued by the Respondent in his proceedings R.C. No. C-721/2004, dt 04-09-2004 is illegal, arbitrary without jurisdiction and contrary to A.P. Rights in land and Pattadar Pass Books Act and also contrary to the provisions of A.P. Scheduled Areas Ryotwari Settlement Regulation 2/1970 apart from violation of principles of natural justice and consequently set-a-side the said order

Counsel for the Petitioner:MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following :

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ORDER:

This Writ Petition is filed to declare the order issued by the respondent dated 04-09-2004 as illegal, arbitrary and contrary to A.P. Rights in Land and Pattedar Pass Books Act and also contrary to the provisions of A.P.Scheduled Areas Ryotwari Settlement Regulation 2/1970 apart from violation of principles of natural justice and consequently set-aside the said order.

The petitioner claims to be in peaceful possession and enjoyment of the land to an extent of 2.80 cents in R.S.No.8/2, total admeasuring Ac.4.22 cents situated at Kothagudem Village, hamlet of Sitampeta Village, V.R.Puram Mandal, Khammam District, having succeeded to the same by virtue of Will dated 10-7-1976 duly executed by the original patedar namely Sri Bachu China Venkata Ratnam, and thereafter, he was also issued Pattedar Pass Book.

While matter stood thus, it is the case of the petitioner that when some third parties tried to interfere with his possession, he filed O.S. No.162 of 2004 on the file of Sub Divisional Magistrate/Mobile Court, Badrachalam and obtained injunction order in I.A.No.27 of 2003 on
24-6-2003. Thereafter, he made representation to the Sub-Collector, Badrachalam, who made an endorsement on the representation and directed the respondent to give protection to him duly implementing the orders of the Learned Mobile Court, Badrachalam .

The respondent all of sudden issued the impugned order dated 4-9-2004 canceling the Ryot Pass Book bearing No. U165768 on the ground that it was issued by mistake without issuing any show cause notice or conducting any enquiry. In the impugned order, the respondent requested the Sub-Collector to assign the said land to Tribals. In pursuance thereof, the respondent is trying to dispossess the petitioner

without following due process of law on the ground that the same is a government land, which is incorrect. Therefore, he prays to declare the impugned orders as illegal, arbitrary by setting aside the same.

Heard counsel for the petitioner and the learned Government Pleader for Revenue and with their consent, the writ petition is itself disposed of finally.

The impugned order dated 4-9-2004, passed by M.R.O., canceling the patta Pass Book of the petitioner, admittedly is passed without any notice to the petitioner on the ground that the Pass Book was issued to the petitioner by mistake and that the land is a government land.

Principles of natural justice demand that before any action is taken by the authorities against private individuals, resulting in civil consequences, a notice calling for the explanation has to be issued to the individual concerned, and after considering the explanation, orders shall be passed and action taken in accordance therewith.

Inasmuch as the impugned order has been passed in violation of principles of natural justice, I deem it appropriate to dispose of the writ petition with the following directions:

The impugned order is set aside. This order, however, does not preclude the respondent - Mandal Revenue Officer to issue notice to the petitioner and pass appropriate orders after considering the explanation that may be submitted by the petitioner to the notice, and taking action in accordance therewith.

This writ petition is accordingly, disposed of. No costs.

01-12-2004

Stp

To

1.The Mandal Revenue Officer, V.P. Puram Mandal Khammam District

2. 2 CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

3. 2 CD copies.

THE HON'BLE MR JUSTICE N.V. RAMANA

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